IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUIT NO. 759 OF 1985

Punjab National Bank .. Plaintiffs.

vs.

M/s. Ghanshyandas Sagarmal

Shah & Ors. .. Defendants.

Mrs Asha K.P.P. Nair i/by M. Menon

for plaintiffs.

None for the defendants.

CORAM : S.U.KAMDAR, J.

DATE : 6th July, 2005.

P.C.

. The present suit has been filed for recovery of a sum of Rs. 71,447 along with interest thereon at the rate of 18% per annum. The plaintiff has filed the suit on the basis of cash credit facilities granted by the plaintiff bank to the defendants. The said facility was granted on 7.10.1976 to the 1st defendant firm and the defendant nos. 1 to 6 are the partners of the 1st defendant. Pursuant to the grant of the said cash

credit facility, the defendants executed the agreement of pledge dated 7.10.1976 pledging the various goods in the nature of cloth pieces with the plaintiffs. The defendants also executed a promissory note for the sum of Rs. 1 lac on 7.10.1976 and agreed to repay the amount which was disbursed by he plaintiff with interest thereon at the rate of 16.5% i.e. 7.5% over and above the Reserve Bank of India rate. It is the case of the plaintiffs that the defendant utilised the said facility of cash credit and at the foot of the account maintained by the plaintiffs there is due and payable by the defendant to the plaintiffs a sum of Rs. 71,447/-. The said amount was overdue but the defendants did not make payment of the aforesaid amount. Accordingly, correspondence was exchanged between the parties wherein the plaintiffs inter alia requested the payment by instalment of Rs. 10,000/- per month. However, the said amount also was not paid. Therefore, the plaintiffs issued a legal notice to the defendants and called upon them to make payment. In view of the non-payment of the said amount, the plaintiffs have filed the present suit to recover the amount standing at the foot of the account which is in the sum of Rs. 71,447/-.

2. The plaintiffs have tendered compilation of documents along with affidavit of evidence which is

taken on record and marked Exhibit P-1 collectively. Mr. Vinayak B. Patil, Manager who is present in the court states that the goods which were pledged are already sold by the plaintiffs and the same are not available. He states that the averments made in para 12 of the affidavit of evidence are erroneous and, therefore, should be ignored.

3. Pursuant to my direction the plaintiffs have addressed a letter dated 4.4.2005 to the advocate of the defendants intimating that the matter is on Board. Inspite of such intimation none appears for the defendants.

4. In view thereof, I pass the following order.

> There shall be a decree in favour of the plaintiffs and against the defendants in the sum of Rs. 71,447.00 with further interest at the rate of 9% per annum from the date of the filing of the suit till payment and/or realisation.

9. Suit decreed accordingly. No order as to costs.